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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BECKER, SHAWN M

ART UNIT	PAPER NUMBER
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2173

DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/723,505

Applicant(s)

GARDNER ET AL.

Examiner

Shawn M. Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

This action is responsive to communication filed 9/22/03.

Claim Objections

1. Claim 30 objected to because of the following informalities: the word "spot" in the second line of the claim has been struck through with the present amendment, but should be reinserted for the claim to make sense. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 7-15, 19-21, and 25-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,370,537 to Gilbert et al. (hereinafter Gilbert) and U.S. Patent No. 6,654,784 to Wei.

Referring to claim 1, Gilbert discloses a method for delivering information to a person accessing a banner website from a terminal located remote from a source of the banner website, the terminal having an associated display upon which a content of the website is visually perceived by a person using the terminal and a cursor whose position is controllable by the person. See col. 17, lines 12-30, which describe how the banner is determined by an ad server, which is remote from the user's terminal. Fig. 26 shows a website, whose content is visually

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perceived by the user, with banner 2600. Col. 17, lines 44-47 describes how the user may move the mouse, which controls the position of a cursor.

a) The method of Gilbert provides initial signals from the source of the website or from another remote source when the website is accessed by the person to establish a banner area on the display (col. 17, lines 12-21), the banner area having banner boundaries (Fig. 26) and including banner advertising information that is visually perceivable by the person when the website is accessed and plural sub-areas of the banner area. See Fig. 26, banner 2600, which shows three sub-areas (frames). Also, see col. 17, lines 40-44, which describe how the banner may be split into frames.

b) The method of Gilbert enables the person to control the cursor to position the cursor on any one of the sub-areas of the banner area to provide a selected sub-area, whereupon the person is automatically provided with respective additional visually perceivable advertising message information associated with the selected sub-area, the additional visually perceivable advertising message information being provided without requiring other action by the person, by displaying the additional visually perceivable advertising message information being displayed in a selected region of the display. See col. 17, lines 44-53, which describes how a mouse over an image in one of the frames causes a pop-up window (visually perceivable) to be displayed in a specific region of the display, the pop-up window provides additional advertising message information associated with the selected sub-area (frame).

c) The method of Gilbert enables the person to control the cursor to position the cursor on the selected region (through the use of the mouse).

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d) The respective additional visually perceivable advertising message information of Gilbert is imperceivable by the person until the cursor is located on the selected sub-area. See col. 17, lines 44-53, which describes how a mouse over an image in one of the frames causes a pop-up window (visually perceivable) to be displayed, which provides additional information associated with the selected sub-area (frame). The pop-up window does not have a button in the window for closing the window ('x'), and therefore is believed to remain perceivable to the person as long as the cursor remains on the selected sub-area (frame) or on the pop-up window. It is typical for a mouse over event to last as long as the mouse (cursor) remains positioned over the image associated with the mouse over. The Examiner takes Official Notice of this teaching. It would have been obvious to one of ordinary skill in the art to ensure the pop-up window of Gilbert remains open as long as the cursor remains on the selected sub-area (frame) or the pop-up window (region), because the lack of movement of the cursor indicates the user is still reading the additional information.

The instructions for controlling the display of Gilbert (i.e. the banner area with pop-up windows) are provided through Java Applets (col. 17, lines 12-30). The instructions are essentially compiled code, and compiled code may be achieved through a vast array of programming environments, including, Java Applets, XML and JavaScript, for example. Therefore, Gilbert implies, but does not explicitly teach that JavaScript may be used to provide the instructions in steps a) and b) above. However, Wei explicitly teaches that Java Applets require starting the Java Virtual Machine and take extra time to download (col. 3, lines 29-39 and col. 4, lines 14-25). Wei describes how JavaScript may replace Java Applets to increase performance and reduce the user's wait time (col. 4, lines 30-54). It would have been obvious to

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one of ordinary skill in the art to modify the advertising method of Gilbert, such that the instructions for controlling the display to provide banner advertisements and additional advertisement information are written with JavaScript instead of Java Applets in order to increase performance and reduce wait time as suggested by Wei.

Referring to claim 2, Gilbert shows a pop-up window associated with banner 2600 in Fig. 26, which substantially crosses the lower boundary of the banner area, but Gilbert does not explicitly show the selected region where the pop-up window (visually perceivable advertising message information) is displayed is disposed substantially outside the boundaries of the banner area. However, pop-up windows may be placed anywhere within a display and may comprise different sizes. As an example, see Fig. 18 of Gilbert, which shows a pop-up window (1802), disposed substantially outside of the boundaries of banner area (1801). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the pop-up window of Gilbert in a selected region disposed substantially outside of the boundaries of the banner area, in order to prevent covering up the banner, and reducing its visibility or to enlarge the pop-up window to draw attention to it.

Referring to claims 7-8, the initial signals of Gilbert carry the instructions necessary for enabling the terminal to establish the additional visually perceivable advertising message information (pop-up) when in receipt of appropriate data and when the instructions operate upon the appropriate data, and the method of Gilbert re-accesses the source of the website or accesses another source for receiving the appropriate data upon which the instructions operate to provide the additional visually perceivable information. See col. 17, lines 25-31 and 50-54.

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Referring to claim 9, the pop-up window of Gilbert (additional visually perceivable information) is displayed in a selected region (window) of the display adjacent to the selected sub-area (frame). See the pop-up window over (adjacent) the banner 2600 in Fig. 26.

Referring to claim 10, the additional visually perceivable advertising message information of Gilbert contains link information for linking the person to a further website when the person clicks on the selected region. See col. 17, lines 48-64.

Referring to claims 11-12, the method of Gilbert receives the visually perceivable banner advertising message information, first identification data representative of the visually perceivable banner advertising message information, the additional visually perceivable advertising message information, and second identification data representative of additional visually perceivable advertising message information. See col. 17, lines 25-31 and 50-54, which describes how the banner information and additional advertising message information are served from an ad server, and therefore must be received by the terminal. The method of Gilbert specifies a placement of the additional visually perceivable advertising message information with respect to the visually perceivable banner advertising message information according to the first and second identification data. See Fig. 26, which shows the pop-up window (additional information) in relation to the banner.

Referring to claim 13, the method of Gilbert must build a use map in accordance with the first and second identification data to associate the appropriate pop-up window with the appropriate image (sub-area) in the banner. See col. 17, lines 44-47. Also, see col. 12, lines 20-28.

Referring to claim 14, Gilbert discloses the step of providing additional visually perceivable advertising message information comprises the steps of:

- a) building a pop-up function in accordance with the additional visually perceivable advertising message information (col. 17, lines 44-47);
- b) adding HTML information to the pop-up function to provide an enhanced pop-up function (col. 17, lines 47-50 and col. 12, lines 26-28); and
- c) displaying the visually perceivable banner advertising message information and the additional perceivable advertising message information in accordance with the enhanced pop-up function. See col. 17, lines 40-50 and the pop-up associated with banner 2600 in Fig. 26.

Referring to claim 15, Gilbert discloses the step of altering associations between the sub-areas (frames) and the respective additional visually perceivable advertising message information and repeating step (b). See col. 17, lines 17-31 and 50-54, which describes how the content of the pop-up (additional visually perceivable information) and banner are determined by the ad server and may be changed by the advertiser.

Referring to claim 19, Gilbert discloses transmitting a request having request information to a server database (ad server) on a further website containing stored visual information in response to the positioning of the cursor on the selected sub-area (frame), selecting the additional visually perceivable advertising message information (pop-up window) from the stored visual information in response to the request information, and transmitting the visually perceivable advertising message information selected from the stored visual information to the banner website. See col. 17, lines 44-54.

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Referring to claim 20, the terminal of Gilbert provides a terminal display having a display iframe comprising the steps of displaying the additional visually perceivable banner advertising message information within the display iframe and displaying the additional visually perceivable advertising message information in response to positioning the cursor on the iframe. See col. 17, lines 12-47 and Fig. 26.

Referring to claim 21, Gilbert discloses a system for delivering information to a person accessing a banner website from a terminal located remote from the source of the banner website, the terminal having an associated display upon which the content of the website is visually perceived by a person using the terminal and a cursor whose position is controllable by the person. See col. 17, lines 12-30, which describe how the banner is determined by an ad server, which is remote from the user's terminal. Fig. 26 shows a website, whose content is visually perceived by the user, with banner 2600. Col. 17, lines 44-47 describes how the user may move the mouse, which controls the position of a cursor.

The system of Gilbert provides initial signals from the source of the website or from another remote source when the website is accessed by the person to establish a banner area on the display (col. 17, lines 12-21), the banner area including banner advertising message information that is visually perceivable by the person when the website is accessed and plural sub-areas of the banner area. See Fig. 26, banner 2600, which shows three sub-areas (frames). Also, see col. 17, lines 40-44, which describe how the banner may be split into frames.

The initial signals of Gilbert enable the person to control the cursor to position the cursor on any one of the sub-areas of the banner area to provide a selected sub-area, whereupon the

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person is automatically provided with respective additional visually perceivable advertising message information associated with the selected sub-area, the additional visually perceivable advertising message information being provided without requiring other action by the person, the respective additional visually perceivable information being imperceivable by the person until the cursor is located on the selected sub-area. See col. 17, lines 44-53, which describes how a mouse over an image in one of the frames causes a pop-up window (visually perceivable) to be displayed, which provide additional information associated with the selected sub-area (frame).

Gilbert shows a pop-up window associated with banner 2600 in Fig. 26, which substantially crosses the lower boundary of the banner area, but Gilbert does not explicitly show the pop-up window (visually perceivable information) is provided substantially outside the boundaries of the banner area. However, pop-up windows may be placed anywhere within a display and may comprise different sizes. As an example, see Fig. 18 or Gilbert, which shows a pop-up window (1802), substantially outside of the boundaries of banner area (1801). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the pop-up window of Gilbert substantially outside of the boundaries of the banner area, in order to prevent covering up the banner, and reducing its visibility or to enlarge the pop-up window to draw attention to it.

The instructions for controlling the display of Gilbert (i.e. the banner area with pop-up windows) are provided through Java Applets (col. 17, lines 12-30). The instructions are essentially compiled code, and compiled code may be achieved through a vast array of programming environments, including, Java Applets, XML and JavaScript, for example. Therefore, Gilbert implies, but does not explicitly teach that JavaScript may be used to provide

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the instructions in the method above. However, Wei explicitly teaches that Java Applets require starting the Java Virtual Machine and take extra time to download (col. 3, lines 29-39 and col. 4, lines 14-25). Wei describes how JavaScript may replace Java Applets to increase performance and reduce the user's wait time (col. 4, lines 30-54). It would have been obvious to one of ordinary skill in the art to modify the advertising method of Gilbert, such that the instructions for controlling the display to provide banner advertisements and additional advertisement information are written with JavaScript instead of Java Applets in order to increase performance and reduce wait time as suggested by Wei.

Referring to claim 25 the pop-up window of Gilbert (additional visually perceivable advertising message information) is displayed in a region (window) adjacent to the selected sub-area (frame). See the pop-up window over (adjacent) the banner 2600 in Fig. 26. The pop-up window does not have a button in the window for closing the window ('x'), and therefore is believed to remain perceivable to the person as long as the cursor remains on the selected sub-area (frame) or on the pop-up window. It is typical for a mouse over event to last as long as the mouse (cursor) remains positioned over the image associated with the mouse over. The Examiner takes Official Notice of this teaching. It would have been obvious to one of ordinary skill in the art to ensure the pop-up window of Gilbert remains open as long as the cursor remains on the selected sub-area (frame) or the pop-up window (region), because the lack of movement of the cursor indicates the user is still reading the additional information.

Referring to claims 26-27, the initial signals of Gilbert carry the instructions necessary for enabling the terminal to establish the additional visually perceivable advertising message information (pop-up) when in receipt of signals transmitted from a further website in response to

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the instructions, and the initial signals of Gilbert require re-accessing the further website for selecting the transmitted signals. See col. 17, lines 25-31 and 50-54.

Referring to claim 28, Gilbert discloses a method of enabling a user on a website to traverse a banner presented on the website using an indicator (mouse cursor) to display an image (pop-up) in response to the traversing of the banner. The method of Gilbert provides the banner with a first hot spot with an associated image (col. 17, lines 45-47), activates the first hot spot when the indicator (mouse) traverses the first hot spot and enables the associated image (pop-up) of the first hot spot when the first hot spot is activated to provide an enabled image (see col. 17, lines 44-47 on how a pop-up is displayed in response to a mouse over). See the pop-up window over (adjacent) the banner 2600 in Fig. 26. The pop-up window does not have a button in the window for closing the window ('x'), and therefore is believed to remain enabled as long as the indicator (mouse) is disposed on the pop-up (enabled image), and the pop-up is removed when the mouse is moved off of it. It is typical for a mouse over event to last as long as the mouse (cursor) remains positioned over the image associated with the mouse over. The Examiner takes Official Notice of this teaching. It would have been obvious to one of ordinary skill in the art to ensure the pop-up window of Gilbert remains open as long as the cursor remains over the enabled image (pop-up), because the lack of movement of the cursor indicates the user is still reading the additional information.

The instructions for controlling the display of Gilbert (i.e. the banner area with pop-up windows) are provided through Java Applets (col. 17, lines 12-30). The instructions are essentially compiled code, and compiled code may be achieved through a vast array of programming environments, including, Java Applets, XML and JavaScript, for example.

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Therefore, Gilbert implies, but does not explicitly teach that JavaScript may be used to provide the instructions in the method above. However, Wei explicitly teaches that Java Applets require starting the Java Virtual Machine and take extra time to download (col. 3, lines 29-39 and col. 4, lines 14-25). Wei describes how JavaScript may replace Java Applets to increase performance and reduce the user's wait time (col. 4, lines 30-54). It would have been obvious to one of ordinary skill in the art to modify the advertising method of Gilbert, such that the instructions for controlling the display to provide banner advertisements, and enable and remove images associated with hot spots in the banner are written with JavaScript instead of Java Applets in order to increase performance and reduce wait time as suggested by Wei.

Referring to claim 29, in the method of Gilbert, a further website is associated with the associated image (pop-up) and further comprises the step of clicking on the enabled image and transporting the user to the further website in response to the clicking. See col. 17, lines 48-64.

Referring to claim 30, the banner in Gilbert is provided with a second hot spot having a further image associated therewith and comprises the further step of traversing the second hot spot by the indicator (mouse) within the banner and enabling the further associated image (pop-up) in response thereto. See col. 17, lines 40-47, which describe how the banner may be divided into frames, each having an associated pop-up on a mouse over.

Referring to claim 31, the indicator of Gilbert is directed by a mouse, having a right mouse button and a left mouse button, and the user traverses the first hot spot without clicking on the right or left buttons of the mouse. See col. 17, lines 44-47, which describe how a mouse over causes the pop-up to be displayed (activates the hot spot).

Referring to claim 32, Gilbert discloses the step of altering associations between the first and second hot spots (frames) and the associated images and enabling the further associated image when the first hot spot is traversed. See col. 17, lines 17-31 and 50-54, which describes how the content of the pop-up (additional visually perceivable information) and banner are determined by the ad server and may be changed by the advertiser.

Referring to claim 33, the selected region (pop-up placement) of Gilbert is disposed partially over the selected sub-area. See Fig. 26, 2600, which shows the pop-up is partially over the middle frame (selected sub-area).

Referring to claim 34, Gilbert shows a selected region disposed outside the selected sub-area for displaying additional visually perceivable advertising message information. See Fig. 26, 2606, which provides information about the selected product in the selected region of the banner in frame outside of the selected sub-area.

4. Claims 3-5 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert, Wei, and U.S. Patent No. 6,496,857 to Dustin et al. (hereinafter Dustin).

Referring to claims 3-5 and 22-24, Gilbert discloses additional visually perceivable advertising message information in the form of a pop-up window, but Gilbert and Wei do not explicitly describe that the pop-up window contains audio information, video information, or mixed media information. However, Dustin describes a method for enhancing advertisements, which provides ads that contain audio, video, and/or mixed media information. See col. 3, lines 5-8. It would have been obvious to one of ordinary skill in the art at the time of the invention to enhance the additional visually perceivable advertising message information (pop-up window

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advertisements) of Gilbert and Wei, such that they include audio, video, and/or mixed media information for a more affective form of advertisement as supported by Dustin.

5. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert, Wei, and U.S. Patent No. 6,401,075 to Mason et al. (hereinafter Mason).

Referring to claims 16-18, Gilbert discloses that the advertisements may be customized according to a user profile or at the discretion of the advertiser (col. 17, lines 21-31), but Gilbert does not explicitly altering the associations between the sub-areas and the additional visually perceivable advertising message information in accordance with recorded performance parameters. However, Mason discloses methods of monitoring internet advertising, in which parameters (which are predetermined) representative of the advertisements (i.e. click-through) are recorded to provide recorded performance parameters, and the advertisements presented are altered in accordance with the recorded performance parameters. See col. 2, lines 39-51.

Altering the advertisements in accordance with the recorded performance parameters is repeated to provide the advertiser with accurate results of the success of the advertisements. It would have been obvious to one of ordinary skill in the art to modify the associations between the frames of the banner (sub-areas) and the pop-up window (additional visually perceivable advertising message information) of Gilbert in accordance with recorded performance parameters as taught by Mason in order to provide the advertiser with information on the success of the advertisements in the pop-up window and alter the pop-up window and banner accordingly as supported by Mason.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 21, and 28 have been considered but are moot in view of the new ground(s) of rejection.

Applicant amends claims 1, 21, and 28 to include the limitations that the instructions for controlling the display to provide banner advertisements and additional visually perceivable advertising message information in the claims are provided by means of JavaScript, and argues that Gilbert uses Java Applets instead of JavaScript. However, Wei clearly teaches an advantage to using JavaScript instead of Java Applets as described above. Therefore, combining the method of Gilbert with the notion of replacing the Java Applets with JavaScript as described by Wei teaches each limitation in claims 1, 21, and 28.

Furthermore, Java Applets are described as one embodiment in Gilbert for providing the compiled code, and compiled code may clearly be provided through all kinds of programming environments. Therefore, while the method of Gilbert gives the example of Java Applets, one of ordinary skill in the art readily recognizes that other programming environments may be used to provide the instructions, especially other Java constructs (i.e. JavaScript, JSP, etc.) primarily used in the web programming field of the banner advertising method of Gilbert.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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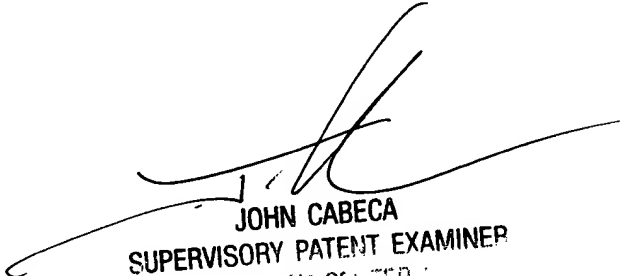
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn M. Becker whose telephone number is 703-305-7756. The examiner can normally be reached on M-Th 8:00 - 5:30 and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca can be reached on 703-305-3116. The fax phone number for the organization where this application or proceeding is assigned is 703-746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

smb



JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1